

IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

NEWMAN'S TRANSPORTATION, LLC
A Texas Limited Liability Company
Domesticated in Oklahoma,

Plaintiff,

v.

SOUTHERN TIRE MART, LLC, a
Mississippi Limited Liability Company,

Defendant.

CJ-2021-01468

Case No.

SUMMONS

To the above-named Defendant:

Southern Tire Mart LLC
c/o Service Agent

Perry Phillips
800 Highway 98
Columbia, Mississippi 39429

You have been sued by the above-named Plaintiff, and you are directed to file a written answer to the attached Petition within twenty (20) days after the service of this summons upon you exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the Plaintiffs. Unless you answer the Petition within the time stated judgment will be rendered against you with costs of the action.

(SEAL)

5-18-21

Court Clerk

By

[Signature]
Deputy Court Clerk

Sam P. Daniel, III, OBA # 2151
1756 South Utica Avenue
Tulsa, OK 74104-5336
918.749.9007
918.749.9023, FAX

This Summons and Petition was served on:

(date)

Signature of person mailing summons

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOU ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.

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DISTRICT COURT
FILED

MAY 18 2021

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

Case No.

CJ-2021-01468

PETITION

Comes now the Plaintiff Newman's Transportation, LLC, a Texas Limited Liability Company, duly domesticated in the State of Oklahoma, and for its claim for relief against Southern Tire Mart, LLC, a Mississippi Limited Liability Company, and states as follows:

PARTIES, JURISDICTION, VENUE

1. Plaintiff transacts business in Tulsa County, State of Oklahoma.
2. Defendant transacts business in Tulsa County, State of Oklahoma.
3. The events and transactions herein occurred in Tulsa County, State of Oklahoma.
4. This Court has jurisdiction over the parties hereto and the subject matter herein and venue is proper in Tulsa County, State of Oklahoma.

ALLEGATIONS OF FACTS COMMON TO ALL CLAIMS FOR RELIEF

5. On March 25, 2021 Edward Robinson, an individual, was the driver of a diesel custom Peterbilt truck which had an issue with fuel and stopped on the shoulder of Interstate 44 East of the City of Tulsa, in Tulsa County, State of Oklahoma.

6. The Defendant was contacted to provide a mechanic for road side assistance.
7. The mechanic refueled one of the fuel tanks and proceeded to prime the fuel pump to start the engine.
8. The priming was not successful and the mechanic then removed the breather and air filter and sprayed a large amount of ether aerosol into the fuel line in order to start the engine.
9. The engine then started and rapidly accelerated to the point of exceeding the redline and then blew up, destroying the engine, the exhaust pipe and transmission, the clutch plate and bell housing, the cab of the truck and rendering the truck and engine useless.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF (BREACH OF AGREEMENT)

10. Plaintiff incorporates by reference paragraphs 1 through 9, and in addition states as follows:
11. Defendant's actions constituted a breach of the implied warranty of good and workmanlike and competent performance and as a direct causal result thereof Plaintiff incurred labor and material costs to transport the truck, to store the truck parts in an amount in excess of \$15,000.
12. That Plaintiff further incurred actual and consequential damages in that the truck was a new truck with low mileage and had a useful expected life span of at least 3 years during which the gross profits derived from the truck would reasonably be expected to exceed \$300,000.
13. That Plaintiff further incurred actual damages for the cost of the replacement of another truck similarly situated in excess of \$85,000.00.

Wherefore, premises considered, Plaintiff prays for a Judgment against Defendant for an amount in excess of \$400,000, plus interest, costs and attorneys fees, and for such other and further relief as is proper in justice and equity.

SECOND CLAIM FOR RELIEF

NEGLIGENCE

14. Plaintiff incorporates by reference paragraphs 1 through 13, and in addition states as follows:
15. Defendant owed a duty of care to Plaintiff in the performance of his job to prevent the engine from blowing up and destroying the truck.
16. Defendant breached said duty of care which breach was the proximate cause of the damage to the Plaintiff's truck.
17. The Plaintiff has incurred property damage for which Defendant is liable to Plaintiff in an amount in excess of \$400,000 for the lost profits and replacement of the truck.
18. That the actions of Defendant were grossly negligent and reckless and punitive damages should be awarded against Defendant to deter such conduct in the future.

Wherefore, premises considered, Plaintiff prays for a Judgment for actual damages in the an amount which would make Plaintiff whole in excess of \$400,000 plus punitive damages in the maximum provided by law, and for such other and further relief as is proper in justice and equity, including interest, costs and attorneys fees.

Respectfully submitted,



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